

[REDACTED]

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**From:** Alistair Kelman [REDACTED]  
**Sent:** 29 April 2019 10:10  
**To:** ageappropriatedesign  
**Cc:** Diana Kelman; Johnny McMahon  
**Subject:** Re: Consultation on the draft age appropriate design code of practice

**Follow Up Flag:** Follow up  
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**Categories:** Green category

Dear Jonathon

Further to my earlier email, this is to set out, in short form, SafeCast's response to the ICO's consultation. I am sending you a copy of SafeCast's response because our response contains hotlinks which might not otherwise get through to you. Please acknowledge safe receipt of this email.

Kind regards

Alistair KELMAN

### **Submission to ICO re Age Appropriate Design Code**

Within the draft code is the provision that information society services (ISS) providers should not use children's personal data in ways that run counter to industry standards, such as the Committee for Advertising Practice (CAP) code, which covers the transparency of paid for activity and product placement. This recognises the results of the consultation with parents and carers whose preferred solution to this issue is to ensure that advertising content meets industry guidelines for advertising directed at children.

In the light of this draft statement by the ICO, SafeCast considers it appropriate that all video shown to children has within it metadata labelling which includes provenance and ownership information regarding the video as well as product placement information (which is already an optional field in the [DPP metadata specifications](#)). The inclusion of provenance and ownership information is something which can easily be done by Members of the Digital Production Partnership ([DPP](#)) which is the UK trade body which establishes interoperability of media standards in the UK and Europe for the main broadcasters i.e. BBC, ITV, SKY, Channel 4 etc. It is not the case with YouTube or similar video services which do not contain provenance and ownership information as illustrated by this article published on 11 April 2019 in the Wall Street Journal.

<https://drive.google.com/file/d/1ru3oQpjyGL-F-WToVbw8ya5ppgXXBOmg/view>

The inclusion of a requirement for provenance and ownership information regarding the video as well as product placement information within metadata labelling is a proportionate means of protecting children from being harmed. Section 104 of the Digital Economy Act 2017 allows ISS providers to filter content for child protection purposes. A failure to include provenance, ownership information and product placement information within standard metadata labelling in a video would facilitate the removal of a video through the use of lightweight filters without censorship and should, therefore, be a breach of the Age Appropriate Design Code.

A further aspect of this arises in respect of Instagram and YouTube's disruption of child labour laws see "*'Kidfluencers' are earning millions on social media, but who owns that money?*" published in the Media Guardian on 24 April 2019

<https://www.theguardian.com/media/2019/apr/24/its-not-play-if-youre-making-money-how-instagram-and-youtube-disrupted-child-labor-laws>

<https://drive.google.com/file/d/1r-WkTvKMiczUxa4iO7FdJ6fEr8b34Qms/view?usp=sharing>

In my view, under the equitable remedy of '[tracing](#)' and without need for additional legislation, it should be possible, under English law, for a court to order the setting aside of a percentage of a child performer's earnings in a blocked trust where it would remain untouched until the child reached adulthood. However such a remedy could only be applied if there were a universal requirement for provenance, ownership information and product placement information being placed within standard metadata labelling in a video so that there could be tracking and tracing of revenues generated by 'Kidfluencers' thereby protecting their property rights. Consequently, a universal requirement for provenance, ownership information and product placement information would be a proportionate approach to the exploitation of children by adults and social media companies.

**[Alistair Kelman](#)**

Director and CEO

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